



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

APR 19 2011

Mr. Daniel Watton
NSTAR Gas Company
One NSTAR Way
Westwood, Massachusetts 02090

Sprague Energy Corporation (Sprague)
Attn: Elizabeth Hernberg, Managing Director
Two International Drive, Suite 200
Portsmouth, New Hampshire 03801

Re: PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)
NSTAR Former MGP Facility, New Bedford, MA

Dear Mr. Watton and Ms. Hernberg:

This is in response to a proposed remedial plan to address PCB-contaminated sediment at the NSTAR Former Gas Facility (Facility) located at 180 MacArthur Drive, New Bedford, Massachusetts. Specifically, tar-impacted sediments that are commingled with PCBs at greater than ($>$) 1 part per million (ppm) are present in the inner and outer slip areas (the Site) adjacent to the Facility. NSTAR's risk-based disposal plan contained in the Notification¹ and application under 40 CFR § 761.61(c) includes the following major actions:

- Install a sheet-pile cutoff wall across the entrance of the inner slip to create an on-site containment structure;
- Remove approximately 1,400 cubic yards of shallow, visibly tar-impacted sediments from the outer slip and consolidate these sediments into the inner slip containment structure beneath a clean soil cap (this work will remove most of the PCB-contaminated sediment in the western portion of the outer slip area);
- Solidify inner slip area sediments located within containment structure and cap with clean fill to match surrounding grade;
- Cap tar-impacted sediments in the outer slip area with a low permeability organo-clay layer, a gravel layer, and a stone-armor layer. The stone-armor layer will be covered by a sand layer to provide benthic habitat; and,

¹ The Revised Risk-Based Cleanup Plan, November 2010 and Revised Phase III Remedial Action Plan, June 2010, submitted by GEI Consultants, and the March 1, 2011 Sprague letter were submitted to support a risk-based disposal approach for PCB-contaminated sediments under 40 CFR § 761.61(c). These three submissions will be collectively referred to as the Notification.

- Establish a Massachusetts Contingency Plan (MCP) Permanent Solution under a Response Action Outcome (RAO) with an activity and use limitation (AUL) for both the inner slip and the outer slip.

On November 23, 2010, NSTAR published notice soliciting comments on the proposed plan in the *Standard Times*. On December 8, 2010 NSTAR conducted an information meeting to present the proposed plan to the public. No comments were received during the public comment period which ran from November 23, 2010 to January 4, 2011.

NSTAR has taken responsibility for conducting the required remedial actions in accordance with the PCB regulations at 40 CFR Part 761 and the Massachusetts Contingency Plan (MCP). In its March 1, 2011 letter to EPA, Sprague confirmed that it would sign the AUL, which will include the requirements for monitoring and maintenance of the Site.

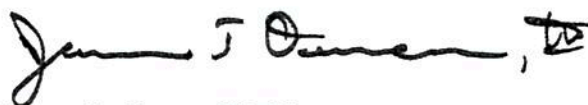
Based on the EPA's review, the proposed plan is acceptable and will create no unreasonable risk when conducted in accordance with the Notification and this Approval and the conditions of Attachment 1. EPA applies this unreasonable risk standard in accordance with the PCB regulations at 40 CFR §761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

EPA is approving NSTAR's and Sprague's proposed plan and they may proceed with the PCB disposal under 40 CFR §761.61(c) and the Notification, subject to this Approval and the conditions of Attachment 1. The proposed plan and the Approval relate only to PCBs present in the inner slip and outer slip, and do not affect activities in the upland areas that are not related to PCB disposal as approved herein.

This Approval may be revoked, suspended and/or modified as described in Attachment 1 if the EPA determines that implementation of this Approval may present an unreasonable risk of injury to health or the environment. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law.

EPA shall consider this project complete only when it has received documents evidencing construction of the cap and adoption of the deed restriction/activity and use limitations. Should you have any questions on this matter, please contact Kimberly Tisa at (617) 918-1527.

Sincerely,



James T. Owens III, Director
Office of Site Remediation & Restoration

Attachment

cc: J. Ash, GEI
MADEP RTN: 4-12592
Bill Lovely

ATTACHMENT 1:

**PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS
NSTAR FORMER MANUFACTURED GAS PLANT FACILITY
INNER SLIP AND OUTER SLIP AREAS
180 MACARTHUR DRIVE
NEW BEDFORD, MASSACHUSETTS**

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* located at the Site and identified in the Notification.² The "Site" includes both the inner slip area and outer slip area PCB-contaminated sediments.
2. NSTAR Gas Company (NSTAR) and Sprague Energy Corporation (Sprague) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. NSTAR must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, NSTAR shall contact EPA within 24 hours for direction on sampling and cleanup requirements.
6. NSTAR is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in the cleanup and disposal activities conducted under this Approval. If at any time a NSTAR or Sprague responsible employee has or receives information indicating that NSTAR or Sprague or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

² The *Revised Risk-Based Cleanup Plan, November 2010* and *Revised Phase III Remedial Action Plan, June 2010*, submitted by GEI Consultants, and the March 1, 2011 Sprague letter were submitted to support a risk-based disposal approach for PCB-contaminated sediments under 40 CFR § 761.61(c). These three submissions will be collectively referred to as the Notification.

7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by NSTAR are authorized to conduct the activities set forth in the Notification. NSTAR is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release NSTAR or Sprague from compliance with any applicable requirements of federal, state or local law; or 3) release NSTAR or Sprague from liability for, or otherwise resolve, any violations of federal, state or local law.

NOTIFICATION AND CERTIFICATION CONDITIONS

9. This Approval may be revoked if the EPA does not receive written notification from NSTAR and Sprague of their acceptance of the conditions of this Approval within 10 business days of receipt.
10. NSTAR shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 3 business days prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, NSTAR shall submit the following information for EPA review and/or approval:
 - a. A certification signed by its selected contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
 - b. A contractor work plan prepared and submitted by the selected contractor(s), detailing the procedures that will be employed for removal, consolidation, and capping of PCB-contaminated sediments and for containment and air monitoring during removal, solidification, and capping activities. The work plan should include information on waste storage, handling, and disposal for generated waste and for equipment decontamination; and,
 - c. A certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the analytical and quality assurance requirements specified in the Notification and in this Approval, if applicable.

REMEDIAL AND DISPOSAL CONDITIONS

12. To the maximum extent practical, engineering controls shall be utilized to minimize the potential for PCB releases during the remedial activities. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.

13. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification, excluding PCB-contaminated sediments to be consolidated and/or disposed of within the Site, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
- a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
 - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
 - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

DEED RESTRICTION AND USE CONDITIONS

14. NSTAR and/or Sprague shall submit for EPA review and approval, a draft deed restriction (or activity and use limitation (AUL)) for the Site. Within forty-five (45) days of receipt, EPA shall, in writing, review and approve the draft deed restriction, approve with minimal conditions, or request specific changes. If EPA requests specific changes, NSTAR and/or Sprague shall submit a revised draft deed restriction for EPA review and approval within thirty (30) days of EPA's request. The deed restriction shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. The long-term monitoring and maintenance shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols, sampling frequency, and analytical criteria; and EPA reporting requirements.

Long-term monitoring of the inner slip will entail visual inspection of the cap and bulkhead closure wall for structural integrity. Inspection of the outer slip cap will entail a bathymetric survey of the cap area and visual inspection for sheen on the water surface. Monitoring will be conducted 3 and 5 years after submission of the RAO and every 5 years thereafter. A monitoring report in accordance with the deed restriction/AUL and applicable EPA reporting requirements will be submitted to EPA within sixty (60) days after each inspection.

NSTAR and/or Sprague shall submit the results of these long-term monitoring and maintenance activities to EPA as detailed in the deed restriction. Based on its review of the results, EPA may determine that modification to the deed restriction is necessary in order to monitor and/or evaluate the long-term effectiveness of the caps.

15. Within fourteen (14) days of receipt of EPA's approval of the draft deed restriction, the deed restriction shall be signed and recorded if no subordinations are required. If one or more subordinations are required, NSTAR and/or Sprague shall use due diligence to attempt to obtain such subordinations, and once they are obtained, shall record the deed restriction within fourteen (14) days. A copy of this Approval shall be attached to the deed restriction, but the specific terms of the deed restriction (and not the Approval) shall govern any issue of interpretation of the deed restriction.
16. Sprague, and any subsequent owner, lessee, or transferee seeking the benefit of this Approval, shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to any sale, lease or transfer. This notification shall include the name, address, and telephone number of the new owner(s), lessee(s) or transferee(s). In the event that Sprague sells, leases or transfers any portion of the Site, Sprague and NSTAR shall continue to be bound by all the terms and conditions of this Approval, except as provided below. EPA may allocate some or all of this Approval's responsibilities to a new owner, lessee or transferee through the issuance of a modification of this Approval ("New Owner Modification") as follows:
 - a. NSTAR and/or Sprague and the new owner(s), lessee(s) or transferee(s) must request, in writing, that the EPA issue a New Owner Modification to the new owner(s), lessee(s) or transferee(s) which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;
 - b. The EPA reviews the request, and determines whether to issue a New Owner Modification;
 - c. EPA provides a draft New Owner Modification for comment by the requesting party(ies) and, following its receipt and review of any written comments, EPA shall provide the final New Owner Modification to the party(ies); and,
 - d. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the final New Owner Modification. The New Owner Modification may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee(s) or transferee(s) of its acceptance of, and intention to comply with, the terms and conditions of the New Owner Modification within thirty (30) days of the date of the New Owner Modification. Under such circumstances, all terms and conditions of this Approval will continue to be binding on Sprague and NSTAR.

17. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the New Owner Modification if it finds, due to the change in use, that this risk-based cleanup and disposal action will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s). To be effective in amending the original deed restriction as it may apply to NSTAR and/or Sprague, the New Owner must secure the agreement and consent of NSTAR and/or Sprague to amend the deed restriction, and obtain any necessary subordinations of prior recorded interests that may be affected by the terms of the amended deed restriction.
18. In any sale, lease or transfer of the Site, Sprague and NSTAR shall retain sufficient access rights to enable them to continue to meet the obligations under this Approval for long-term maintenance and monitoring of the Site, except as provided otherwise in a re-issued approval.

INSPECTION, MODIFICATION AND REVOCATION CONDITIONS

19. NSTAR and Sprague shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by NSTAR or Sprague to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
20. Any modification(s) in the plan, specifications, or information submitted by NSTAR or Sprague, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. NSTAR or Sprague shall inform the EPA of any modification, in writing, at least ten (10) days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification. If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information needed from NSTAR or Sprague to make a determination regarding potential risk.
21. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

22. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
23. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that there is migration of PCBs from Site. NSTAR or Sprague may apply for appropriate modifications in the event new rules, standards, or guidance comes into effect.

RECORDKEEPING AND REPORTING CONDITIONS

24. NSTAR shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K and shall submit same to Sprague. A written record of the activities and the analytical sampling shall be established and maintained by NSTAR and/or Sprague in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection by authorized representatives of EPA.
25. NSTAR shall submit the MCP Release Abatement Measure (RAM) Completion Report and Response Action Outcome (RAO) Statement as a final report to the EPA within 120 days of completion of the activities authorized under this Approval and shall submit same to Sprague. At a minimum, this final report shall include: a short narrative of the project activities; characterization and confirmation sampling analytical results and copies of the accompanying analytical chains of custody, as applicable; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste disposed of and the size of the remediated area(s); copies of manifests and copies of certificates of disposal or similar certifications issued by the disposer, as applicable; and, a copy of the recorded deed restriction (AUL).
26. As required under Condition 14 of this Approval, NSTAR and/or Sprague shall submit the results of the long-term monitoring and maintenance activities to EPA as specified in the deed restriction to be approved by EPA.

27. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

28. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

END OF ATTACHMENT 1

